

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-740-C - ORDER NO. 94-487✓
MAY 26, 1994

IN RE: Application of Opus Correctional, Inc.) ORDER
for a Certificate of Public) APPROVING
Convenience and Necessity to Provide) CERTIFICATE
Inmate Communications Service.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the December 20, 1993, Application of Opus Correctional, Inc. DBA Loctel (Opus or the Company) for a Certificate of Public Convenience and Necessity. The Applicant seeks authority to terminate calls originated from correctional facilities to all points within the state. Opus' Application was filed pursuant to S.C. Code Ann. §58-9-280 (1976, as amended) and the Regulations of the Public Service Commission of South Carolina. Opus was granted temporary permission to provide intrastate collect-only telephone service to inmates of the Federal Bureau of Prisons correctional facility in Estill, South Carolina, pursuant to our Order No. 93-1112.

The Commission's Executive Director instructed Opus to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Opus' Application and of the manner and time in which to file the appropriate pleadings for participation in these proceedings. Opus complied with this instruction and provided the Commission with

proof of publication of the Notice of Filing. Petitions to Intervene were filed by Southern Bell Telephone and Telegraph Company (Southern Bell) and the Consumer Advocate for the State of South Carolina (Consumer Advocate). Southern Bell's subsequent Motion to Withdraw from this proceeding was granted by the Commission in Order No. 94-404, dated May 4, 1994. The Consumer Advocate has now filed a letter stating that it no longer desires to participate at a hearing on this matter.

Barry Kostin, Director of Operations of Opus, submitted sworn testimony on behalf of Opus. Mr. Kostin stated that Opus is interested in providing collect call telephone service at confinement facilities within the state of South Carolina. Specifically, Opus has requested authority in order to provide collect call capability to inmates of the United States Department of Justice Division of the Federal Bureau of Prisons correctional facilities located in South Carolina. Opus does not propose to provide telecommunications service to the general public, and therefore, does not intend to provide telecommunications services to business or residential customers. Opus, also, will not provide telecommunications services to correctional facility administrators or at pay telephones in correctional facility lobbies or waiting rooms. Kostin explained that to minimize the ability of inmates to make fraudulent or harassing telephone calls, collect calls will be provided on a fully automated basis without intervention of a live operator. In addition, all collect calls will require that the called party affirmatively accept the call. Consistent with past practice under the emergency permission, given to the Company, the

rates contained in Opus' proposed tariff are those of the local telephone company for local and intraLATA calls and AT&T Communications for interLATA calls. The Commission has already determined that these rates are just and lawful and are in the public interest. Opus does not desire to provide any 900 services. According to Kostin, Opus has extensive technical and managerial experience with which to provide the services described in its application. Currently, the Company provides intrastate telecommunications services in Colorado, Florida, New York, Pennsylvania, New Jersey, and Texas. Kostin states that, Opus is well qualified, financially, to provide its proposed services and that the proposed service is in the public interest.

After full consideration of the applicable law, the Application, and the testimony submitted by Opus, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Opus is incorporated under the laws of the state of Massachusetts and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Opus operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina by providing collect call capability to inmates of the United States Department of Justice Division of the Federal Bureau of Prisons correctional facilities located in South Carolina.

3. Opus has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Opus to provide collect call capability to inmates of the United States Department of Justice Division of the Federal Bureau of Prisons correctional facilities located in South Carolina.

2. The Commission adopts a rate design for Opus for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). This Commission adopts Opus' proposed maximum rate tariff.

3. Opus shall not adjust its rates below the approved maximum level without notice to the Commission and the public. Opus shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the

general body of Opus' subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (1976, as amended), as amended.

4. Opus shall file its tariff and in accompanying price list within thirty (30) days of the date of this Order. Further, the tariff shall be filed in a loose-leaf binder.

5. Opus shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

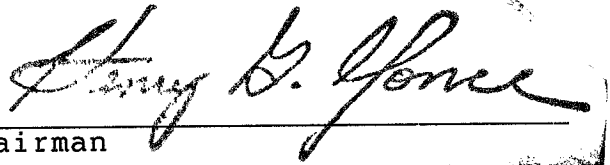
6. With regard to the provision of inmate calling service for local and intraLATA calling, Opus shall not charge rates any greater than the rates charges by the local exchange company at the time a call is placed. For interLATA calling, Opus shall charge rates not greater than AT&T's charges and operator station usage rates at the time the call is placed. Additionally, automated collect calls shall only be completed with the affirmative acceptance by the called party. Also, the company shall not impose any subscriber surcharges on calls originated from inmate facilities.

7. For inmate calling service, call detail information submitted to the local exchange company for billing purposes must include the COCOT access line telephone number as assigned to the line by the local exchange company. Further, should Opus provide the pay telephone equipment in confinement facilities, the Company shall obtain certifications to provide private telephone services

and should request waiver of specific guidelines as required for the provision of inmate calling services.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION, MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE).